

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

February 19, 2004

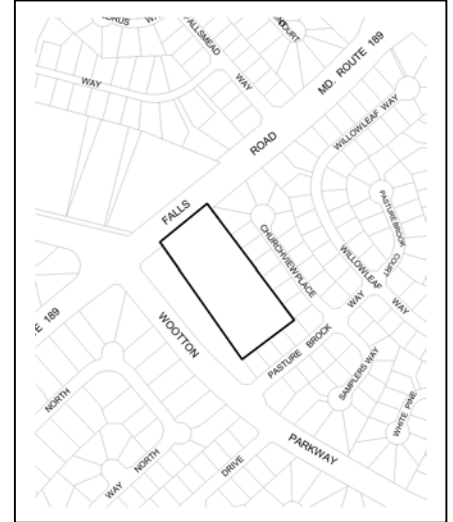
SUBJECT:

Use Permit Application USE2003-00665

Applicant: Lutheran Church of the Cross
c/o Patricia Schettino
12801 Falls Road, Rockville, Maryland 20854

Property
Owner: Lutheran Church of the Cross
12801 Falls Road, Rockville, Maryland 20854

Planning Commission Review Date: February 25th 2004



PREVIOUS RELATED ACTIONS:

Use Permit U-448-89, Lutheran Church of the Cross – a proposal to expand site parking via construction of two new handicapped parking spaces. Approved by the Chief Planner on October 20, 1989.

Special Exception SPX2003-00327, Children of the Cross Preschool c/o Brenda L. Bertrand – a request to reestablish a private educational institutional use (i.e., a preschool) on the subject property, located in the R-90 (single family restricted residential) Zone. Approved by the Board of Appeals on April 5th 2003.

REQUEST:

The applicant submits the subject request in accordance with Section 25-193 of the City of Rockville Zoning Ordinance. The request is a development proposal to construct a new 4,297 square building addition on the existing 9,359 square foot church, create a new main building entrance and drop-off, new surface parking spaces, and other miscellaneous site and building improvements.

RELEVANT ISSUES:

In reviewing the application request, the following issue emerged and should be addressed as is appropriate:

The new space being created by the proposed new building addition may not be used nor incorporated in the operation of the church's preschool, which was approved under Special Exception SPX2003-00327.

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

1. The applicant must submit to the Chief of Planning eleven (11) copies of the site development plans revised to illustrate the following site development issues have been satisfactorily addressed:

- a. The proposed site and building improvements must be constructed in substantial accordance with site development and building plans respectively prepared and submitted by Macris, Hendricks & Glascock, P.A. and Lee-Warner Architects Inc. Also, the new building addition must be constructed of building materials similar in make, color, and quality to that of the existing church.
- b. In accordance with Section 25-711 & 728 of the Zoning Ordinance the applicant must submit a final record plat denoting the proposed right-of-way dedication along the site's street frontage. Said plat must also denote all proposed and existing easements located on the subject property.
- c. The following note should be added on the site development plan, under the site data: "The proposed building addition will comply with all requirements of the fire and building codes."

2. The Department of Public Works (DPW) requires the following information and/or action be taken:

- a. Appropriate bonds must be posted and applicable permit obtained from DPW.
- b. Submit detailed engineering plans and computations for review and approval for sediment and erosion control and stormwater management.
- c. Verify whether water and sewer service is adequate and if not, post a bond and obtain a public improvement permit from DPW.
- d. Applicant must obtain a permit from the Maryland State Highway Administration for utility connections and access improvements.
- e. Provide a sidewalk connection from Falls Road to the interior of the site.
- f. Dedicate Falls Road right-of-way as shown on the proposed site development plan/s. Note, the public bike path as proposed under the bikeway master plan, along Falls Road will be constructed by others at a future date.

3. The City Forester requires the following information be provided and/or action be taken:
 - a. The site Forest Conservation Plan (FCP) must denote on-site forest retention and significant tree replacement.
4. The State Highway Administration (SHA) requires the following information and/or action be taken:
 - a. Applicant must obtain a permit from the SHA District 3 Utility Engineer for one (1) storm drain connection. Existing utilities are located within the public right-of-way of Falls Road, a state roadway.

ANALYSIS:

Property Description

According to the information obtained from the state's tax assessment office, the subject church property is approximately 4.5 acres (196,020 square feet) in size. The property is located on the south side of Falls Road (State Route 189), approximately 130 feet east of the Falls Road and Wootton Parkway intersection. When the church was initially developed in 1965 the property was located in Montgomery County, just outside of the corporate limits of the City of Rockville. The property is currently improved with the existing two-story church, which is of masonry and wood construction, site surface parking facilities, designed to accommodate 62 vehicles. Located at the rear of the church is an outdoor play area, which contains children's play equipment. There is a small outbuilding located at the eastern edge of the church's rear parking facilities.

The church property has approximately 300 feet of frontage along Falls Road. Vehicular access to the site is provided via a single entrance onto Falls Road. The church is bounded on north and south by single family detached residential dwellings, west by Orchard Ridge Park that abuts Wootton Parkway, and north by Falls Road. The church has two full and one partial floors, i.e., a ground floor, first floor, and partial second story. Located on the ground floor of the church is the fellowship hall, a kitchen, restrooms, miscellaneous storage space, and a mechanical room. Located on the first/main floor of the church is the one hundred seventy-five (175)-seat sanctuary, church chancel, pastor and church office space, and restrooms. The partial second story of the church contains a meeting room and restroom facilities.

As shown on the site plan submitted with the subject request, a total of sixty-eight (68) surface parking spaces are shown (as being provided) for the church. Note, with a capacity of 175 seats located within the church sanctuary, a total of 44 on-site parking spaces are required to accommodate the subject site/church use, i.e., one (1) parking space for each four-(4) seats for whom parking is provided for in the main auditorium (ref. Section 25-396(8) of the Zoning Ordinance).

The site's topography ranges from flat to gentle sloping. There is however, pronounced surface sloping located along the site's street frontage. Site surface grades in that area fall from the northeast corner of the site, downward towards the northwest front side yard area of the site. The property contains an array of mature trees and other vegetative plantings located throughout the site, ranging in species and size.



Aerial overview of 12801 Falls Road

Proposed Site Use

When the church was originally constructed in 1965 the property was located in Montgomery County. Based on information provided by the applicant, the property was annexed into the City at the time Falls Road was widened and improved. After Falls Road was widened and improved, the subject property's address changed from 1350 to 12801 Falls Road.

The use permit as submitted is a development proposal to construct a 4,297 square foot building addition onto the southeast corner of the 9,359 square foot church. As designed the new building addition will create a new main entrance into the church. Vehicular and pedestrian access to the new main entrance will be provided via a new driveway extension, with a new vehicular turnaround, supplemented by six (6) new additional site surface parking spaces. The new driveway extension and vehicle turnaround is designed to allow persons attempting to access the church via the new proposed main entrance, to be conveniently dropped-off and picked-up in that area of the site.

The applicant affirms that the new building addition is being constructed to accommodate current needs of the church's membership and not based on any future/projected increase in church membership. Under the proposal as submitted, there will be no physical expansion or alteration of the church's existing one hundred seventy-five (175)-seat sanctuary. The proposed

new building addition will create new classroom space (for church-related religious use only), additional office space, meeting/conference area, and miscellaneous storage space.

The applicant has been made aware that the new classroom space being created by the planned new building addition may not be used by the church's pre-school operation approved under Special Exception SPX2003-00327. Also, in accordance with requirements of the City's Zoning and Forest and Tree Preservation Ordinances, the applicant has submitted a landscape plan, and forest conservation plan, which have been reviewed and approved by the City Forester's Office.

As shown on the accompanying site development plan/s, the existing site surface parking lot located in the western side yard area of the site will be completely resurfaced and re-striped. In accordance with Section 25-395 (8) of the Zoning Ordinance, a total of 44 parking spaces are required for the church, based on its 175-seat sanctuary, i.e., one space per each four-(4) seats provided in the main auditorium/sanctuary is required. In accordance with Section 25-395(14) of the Ordinance, 6 parking spaces are required for the preschool, i.e., one (1) parking space for each two (2) employees, including teachers and administrators, plus sufficient off-street space for the safe and convenient loading and unloading of students. Based on the site development plan submitted with the subject use permit request, sufficient on-site parking is shown for both the planned and existing site uses, e.g., a total of sixty-eight (68) parking spaces are shown (as being provided).

Although not subject to the proposal as submitted, but relevant in the overall operation of the church and its related site activities, on April 5th 2003, the City of Rockville Board of Appeals approved Special Exception SPX2003-00327, allowing for the re-establishment of a private educational institutional use (i.e., a preschool) on the subject property. Based on available information, the church operated a nursery school from 1966 to June 2000. Although, the church had operated a nursery school for well over 33 years, staff found no record or evidence that the church ever sought and/or was granted special exception approval for the operation of the nursery school by the City of Rockville Board of Appeals, after the property was annexed into the City. Hence, the church was required to seek approval to re-establish a similar private educational institutional use (i.e., a preschool program) on the subject site.

The preschool operates weekdays between the hours of 9:00 a.m. to 3:00 p.m. According to information provided with the referenced special exception request, the preschool operates on a school calendar consistent with that of Montgomery County Public Schools. When the school is fully operational and at its maximum enrollment, the school is to be staffed by a maximum of six (6) to twelve (12) employees, e.g., which will include teachers, teacher assistants, and the Director of the school. Children being cared for by the school are of pre-school age, 3 and 4 year olds. Children arrive and depart the site via private vehicles. Children are dropped-off and picked-up depending on which session they are enrolled in, i.e., morning or afternoon sessions. The church's preschool is located in the open fellowship hall on the ground floor of the church, as was the church's nursery school, which was operational from 1966 thru the spring of 2000.

In addition to the preschool operation, other church related activities and/or events (except for Sunday worship services) also occur during the week, primarily during evening hours (See

Attachment “A”). According to the information provided by the applicant, there is a modest church staff presence, which includes the pastor and church secretary, at the church, weekdays between the hours of 9:00 a.m. to 4:00 p.m. Per the development plans as submitted, there is no indication from the applicant the church plans to or needs to increase the number of church staff members or employees, in order to staff the new building facilities.

Applicable Sections of the Zoning Ordinance and Staff Analysis

In accordance with Section 25-193 of the Ordinance, a use permit shall be issued if the Planning Commission finds that the use proposed will not:

1. Adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use. The church has been at the subject location for well over 35 years and as such, is viewed to be an established institutional use within the community and the City. In its review and processing of the use permit, staff found no record or evidence the church and/or any of its associated activities and events have posed a nuisance to the community or been adverse to the safety of persons working or living in the site area.

As noted, the church preschool as approved under SPX2003-00327 was a reestablishment of the church’s previously operated private educational institutional use, i.e., a nursery school, which operated from 1966 up to the Spring of 2000. Unlike the previous nursery school the preschool has morning and afternoon hours of operation, i.e., 9:00 a.m. to 11:30 a.m. and 12:30 p.m. to 3:00 p.m. Thus with the exception of other church related activities as listed in Attachment “A” of this staff report, there is no evidence the planned building addition and/or other associated site improvements will be adverse to the persons living and or working within the neighborhood.

As a matter of record, in its previous grant of SPX2003-00327, the Board of Appeals found no evidence that the church’s reestablishment of a private educational institutional use on the site violated or adversely affected the City’s Master Plan, the Zoning Ordinance, or any known laws of the City. The land use designation of the subject property as assigned by the Plan is for “institutional” land usage. Thus, based on the intended and/or designed use of the additional building space being created by the new church addition, it is expected the church will continue to function and operate much in the same manner as it has over the course of the past several decades.

2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The planned building addition will be constructed of building materials compatible with that of the existing church. Additional site surface parking will be created and the existing site surface parking lot will be completely resurfaced and re-striped. The new driveway extension with its new vehicular turn around and six (6) new parking spaces will be located in the northeastern area of the site, proximate to the new building addition. The applicant proposes to install new trees and supplemental plantings along the outer edge of the new driveway extension and parking area, in order to screen and buffer it from the neighboring single family homes located along the site’s eastern lot line area.

The new building addition as sited complies with and greatly exceeds all of the building setback requirements of the R-90 (Single family detached, restricted residential) zone. The building addition as sited, maintains and slightly exceeds the existing side yard setback of the existing church from the site's eastern side yard lot line. The new building addition is setback well over 110 feet from the eastern side yard lot line, 135 feet from the western lot line, and 400 feet from the southern rear yard lot line. Once constructed the new 4,297 sq.ft. addition and existing 9,359 sq.ft. church will total 13,658 square feet in size. As noted, the church property is well over 4 acres \pm in size and as such, the newly expanded church will be well under the 25 percent maximum lot coverage permitted per the R-90 zone, i.e., 25% of 4.5 acres (196,020 sq.ft.) equals 49,005 sq.ft. of lot coverage permitted.

Since the building addition as proposed does not alter nor expand the church's existing 175 seat sanctuary, vehicular traffic now generated from the subject church site is not expected to substantially increase. A schedule of church related activities has been submitted with the application, denoting the day and time of respective activities and church functions (See Attachment "A"). While the church's preschool is operational weekdays between the hours of 9:00 a.m. to 3:00 p.m., during the months of September thru June, it has been noted that said use of the church is not the primary use of the subject property during weekday hours.

Based on information provided under previously approved SPX2003-00327, children are picked-up and dropped-off during morning and afternoon time frames, insuring that site generated (weekday) vehicular traffic is spread out over the course of the day, as opposed to being more heavily concentrated during early morning and evening peak hour travel times. Thus, it has been determined that the amount of vehicular traffic generated from all church related site activities will not overburden existing roadways/streets within the site area.

A review of available City records indicate there are no violations or complaints filed or pending against the church. Based on all available information, staff finds no basis to believe that the new building addition and its intended church related uses, will adversely impact the public health, safety, and welfare of persons living and/or working in the site area. Also, the predominately residential character of the site area is well established and will not change due to the planned church expansion.

To accommodate future expansion and/or improvements to Falls Road, the applicant proposes to dedicate to the State Highway Administration (SHA) approximately 7,800 square feet of the site's street frontage for use as public right-of-way. As a condition of use permit approval, staff has recommended that the applicant must work with both the SHA and City's Department of Public Works to satisfactorily address any and all requirements pertaining to applicable water and sewer service improvements, and site storm water and site drainage requirements.

Based on current land use patterns of the site area, coupled with regulatory oversight of the Zoning Ordinance, there is no evidence the planned expansion of the church will adversely impact the community in which it is located.

3. Constitute a violation of any provision of the Zoning Ordinance or other applicable laws. The subject property is currently improved as a fully operational and functioning religious institutional use within the subject R-90 Zone. As noted, the church has been operational at the subject location for well over thirty-five (35) years. The existing and planned expansion of the church has been found to comply with all applicable provisions of the Zoning Ordinance and other applicable law at this stage in the development review process. As a condition of approval, the applicant will be required to work with both SHA and City Staff to insure that applicable permits are obtained and detailed engineering plans and/or studies are submitted and approved in order to implement the project as proposed.

The subject property has approximately 300 feet of lot frontage on Falls Road. The existing church is approximately 35 feet tall and as per Section 25-356 of the Ordinance, which is applicable to the operation of the church's preschool, the church must maintain a side yard setback of 70 feet. According to the site development plan as submitted with the subject request, the church has a front yard setback of 80 feet, minimum side yard setbacks of 110 feet \pm and 135 feet \pm respectively, and a rear yard setback well over 400 feet. Thus, the new building addition as proposed complies with all building setback, lot coverage, and height requirements applicable thereto.

Based on all of the noted factors, staff finds suitable justification to recommend Use Permit USE2003-00665 be approved, subject to the conditions as referenced on pages two and three of this staff report.

COMMUNITY NOTIFICATION PROCESS

Notification cards were sent to surrounding property owners informing them of the application request and upcoming Planning Commission review, where the request will be publicly considered. Notices were sent to 372 addresses located within the subject site area. A list of the addresses to which notices were sent is contained in the project's application file, available for public review and inspection.

/cdc

List of Attachments

Attachment "A" – Schedule of Church Activities
Attachment "B" – SPX2003-00327 Approval Letter
Exhibit "1" – NRI?FSD
Exhibit "2" – Site Development Plan
Exhibit "3" – Landscape Plan
Exhibit "4" – FCP
Exhibit "5 & 6" – Building Elevations